

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ERIE COUNTY ENVIRONMENTAL
COALITION, PENNENVIRONMENT,
INC. and THE GAIA DEFENSE LEAGUE,
Plaintiffs

V.

MILLCREEK TOWNSHIP SEWER
AUTHORITY AND MILLCREEK
TOWNSHIP,
Defendants

CIVIL ACTION NO. 05-59 ERIE
ELECTRONICALLY FILED

JUDGE COHILL

**SUPPLEMENT TO CONCISE STATEMENT OF MATERIAL FACTS
IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT ON BEHALF OF
MILLCREEK TOWNSHIP SEWER AUTHORITY AND MILLCREEK TOWNSHIP**

Defendants MILLCREEK TOWNSHIP SEWER AUTHORITY and MILLCREEK TOWNSHIP, by and through their attorneys, MacDonald, Illig, Jones & Britton LLP, hereby file this Supplement to Concise Statement of Material Facts in Support of Motion for Summary Judgment on Behalf of Millcreek Township Sewer Authority and Millcreek Township, pursuant to LR 56.1.B.1 of the Local Civil Rules of the United States District Court for the Western District of Pennsylvania:

209A. Thus, it has been nearly 29 months (September 2004 - February 2007) since there has been an overflow at the following three locations: (1) 51st and 52nd Streets and Zimmerly Road; (2) Larchmont and Beaver Streets; and (3) Church and Patton and Pershing Streets. (Second Supp. Aff. of G. Riedesel, ¶ 1).

214a. On October 24, 2006, the Peach Street Diversion Project was completed and fully operational. (Second Supp. Aff. of G. Riedesel, ¶ 2).

214b. The actual cost of the Peach Street Division Project was \$217,398.13. (Second Supp. Aff. of G. Riedesel, ¶ 3).

245a. With respect to the areas that impact the Beaver Run Sewer (and hence the overflows at the manholes in the Larchmont and Beaver Streets area and the Church and Patton and Pershing Streets area), Millcreek Township Sewer Authority ("MTSA") and Millcreek Township ("Millcreek") have conducted 267 additional inspections. (Second Supp. Aff. of G. Riedesel, ¶ 4).

245b. MTSA and Millcreek have now conducted over 600 inspections in the areas tributary to the three manhole overflow areas alleged in Plaintiffs' Complaint. (Second Supp. Aff. of G. Riedesel, ¶ 5).

245c. MTSA and Millcreek have now inspected all of the areas that are tributary to the manholes at the Church and Patton and Pershing Streets area. (Second Supp. Aff. of G. Riedesel, ¶ 6). MTSA and Millcreek presently are completing inspections in all of the areas that are tributary to manholes in the Larchmont and Beaver Streets area. (Second Supp. Aff. of G. Riedesel, ¶ 7).

245d. MTSA and Millcreek also have eliminated 11 additional illegal stormwater connections that were impacting the areas during storm events. (Second Supp. Aff. of G. Riedesel, ¶ 8).

245e. It is estimated that on average, the removal of these 11 additional illegal connections has reduced peak flows through the Beaver Run Interceptor by at least 80,000 gallons per day instantaneous peak flow. (Second Supp. Aff. of G. Riedesel, ¶ 9).

246a. With the removal of 11 additional illegal connections, MTWA and Millcreek have removed 52 illegal connections in the areas served by these locations since the inception of the I&I inspection program in 2003. (Second Supp. Aff. of G. Riedesel, ¶ 10).

246b. The total removal of 52 illegal connections has reduced peak flows on average through the Beaver Run Interceptor by at least 0.303 MGD instantaneous peak flows. (Second Supp. Aff. of G. Riedesel, ¶ 11).

317a. The work relating to the construction of the overflow retention tanks and accompanying improvements to the Kearsarge Pump Station began on May 15, 2006. (Second Supp. Aff. of G. Riedesel, ¶ 12).

317b. As of the end of January 2007, the contractor has completed construction of one of the two tanks, made significant progress in the construction of the second tank and has completed most of the other major components of the project, except the forward pump replacement, which will be completed shortly. The project is expected to be ready for startup and testing in late February/early March 2007. (Second Supp. Aff. of G. Riedesel, ¶ 13).

317c. Attached as Exhibit 1 to the Second Supplemental Affidavit of George Riedesel is a photograph of the tank construction taken on January 30, 2007. The tank in the background is completed and the tank in the foreground is near completion. (Second Supp. Aff. of G. Riedesel, ¶ 14, Ex. 1).

317d. Attached as Exhibit 2 to the Second Supplemental Affidavit of George Riedesel is a photograph taken on January 30, 2007 of the SCADA controller panel, which has been installed as part of the project. (Second Supp. Aff. of G. Riedesel, ¶ 15, Ex. 2).

317e. Attached as Exhibit 3 to the Second Supplemental Affidavit of George Riedesel is a photograph taken on January 30, 2007 of the SCADA controller (located in the background), which has been installed as part of the project. (Second Supp. Aff. of G. Riedesel, ¶ 16, Ex. 3).

317f. Attached as Exhibit 4 to the Second Supplemental Affidavit of George Riedesel is a photograph taken on January 30, 2007 of the new electrical panels which have been installed as part of the project. (Second Supp. Aff. of G. Riedesel, ¶ 17, Ex. 4).

317g. Under the current schedule, the overflow retention tanks and accompanying improvements to the Kearsarge Pump Station are to be completed and operational on or before March 26, 2007, as required by the 2003 COA, and the overflow will be removed on or before April 25, 2007, as required by the 2003 COA. (Second Supp. Aff. of G. Riedesel, ¶ 18).

Respectfully submitted,

s / Mark J. Shaw

Mark J. Shaw
PA50763
Robert E. Gandle
PA82524
MacDONALD, ILLIG, JONES & BRITTON LLP
100 State Street, Suite 700
Erie, Pennsylvania 16507-1459
(814) 870-7607
(814) 454-4647 (Facsimile)
mshaw@mijb.com

Attorneys for Defendants
Millcreek Township Sewer Authority
and Millcreek Township

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